

REMARKS

Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

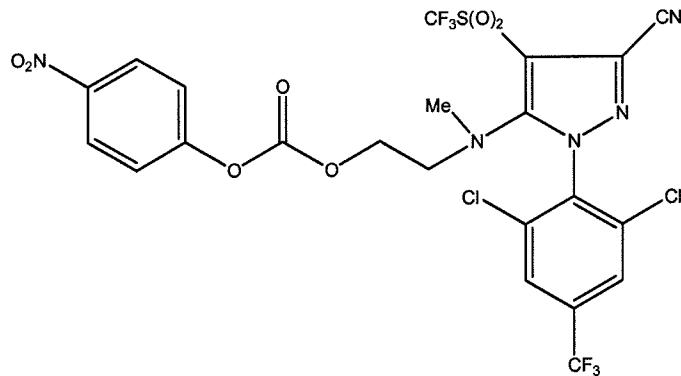
The August 25, 2008 Office Action called for a restriction to one of the following inventions as required under 35 U.S.C. 121 and 372:

- I. Claims 1-5, 7, 12, and 15-18, drawn to a compound, composition or veterinary medicament of formula I.
- II. Claim 6, drawn to a method of making formula I.
- III. Claims 10 and 11, drawn to a method for controlling pests within an area comprising application of formula I.
- IV. Claims 13 and 14, drawn to a method for controlling pests in or on an animal comprising administration of formula I.

Applicant elects, with traverse, invention I, which relates to compounds, composition and veterinary medicament of formula I, and encompasses claims 1-5, 7, 12, and 15-18. Applicants reserve the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

The Office Action also required election of a single disclosed species.

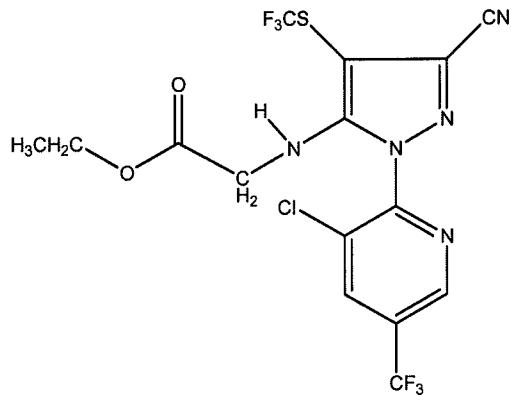
Applicants elect compound of formula I, wherein R¹ is CN, R² is Cl; R³ is CF₃; R⁴ is Me; R⁵ is 4-nitrophenyl; R⁶ is CF₃, A is -CH₂-CH₂-, X is CO, Y is O, W is C-Cl, and n is 2 (compound 30, Table 1, page 9 of the specification as published), with traverse.



Compound 30

The Office Action alleges that the inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2 they lack the same or corresponding special technical feature. Applicants respectfully disagree.

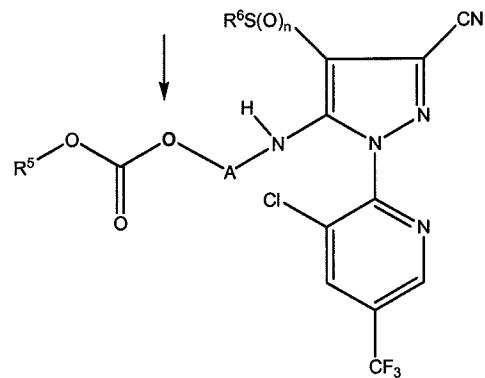
The Office Action states that Phillips, et al. (EP 0500209B1) teach an embodiment of formula I (Compound 67, Table 1, page 25) and therefore, the claimed invention lacks a special technical feature.



Compound 67

(EP 0500209B1)

It is respectfully submitted, that the special feature which links the claims of Groups I – IV is a novel substituent, $\text{R}^5\text{-Y-X-Q-A-}$ as shown in formula I of the present invention:



Compound of formula I

Present Invention

Contrary to the assertions in the Office Action, EP 0500209B1 does not relate to the substituted 5-amino pyrazoles of the present invention. The cited reference does not teach or suggest $\text{R}^5\text{-Y-X-Q-A-}$ substituents of formula I. As such, formula I is a special technical feature that links together Groups I-IV, as compounds, composition and veterinary medicament of

formula I, a method of making compounds of formula I, and a method for controlling pests using compounds of formula I, as to form a single general inventive concept under PCT Rule 13.1.

In view of the fact that the lack of unity objection is based on erroneous reasoning, i.e., it is not based on the actual special technical feature which unifies the claims of Groups I-IV, all of the Groups of claims should be rejoined in the present application.

In summary, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by both the Applicant and the PTO, as well as extreme prejudice to Applicant (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since it has been shown that the requisite showing of serious burden has not been made. Indeed, the search and examination of each invention would be likely co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding, therefore, mitigate against restriction.

In view of the above, reconsideration and withdrawal of the restriction requirement are requested.

CONCLUSION

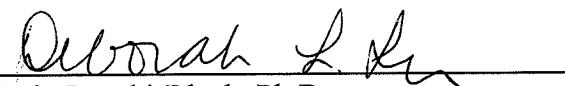
In view of the remarks herein, reconsideration and withdrawal of the restriction requirement are requested.

Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

No fee is believed to be due. The Commissioner is authorized to charge any fee occasioned by this paper, or credit any overpayment in fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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